

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TEXHOMA PROPERTIES, LLC)	
)	
Plaintiff,)	
)	
v.)	Case No.: <u>CIV-22-3-F</u>
)	
STATE FARM FIRE AND CASUALTY)	
COMPANY,)	(District Court of Comanche
)	County; Case No. CJ-22-583)
Defendant.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, 1446; and LCvR 81.2, Defendant State Farm Fire and Casualty Company (“State Farm”), a foreign corporation, hereby removes this action to the United States District Court for the Western District of Oklahoma, which is the federal judicial district in which this action is pending. In support of this Notice, State Farm states:

1. The State Court Action. Plaintiff Texhoma Properties, LLC (“Plaintiff”) filed this action against State Farm on November 29, 2022, in the District Court of Comanche County, State of Oklahoma (Case No. CJ-2022-583) (the “State Court Action”).

2. Attachment of State Court Papers. Pursuant to 28 U.S.C. § 1446 and LCvR 81.2, copies of the Petition, Summons, Administrative Order 2022-1; and a Summons Returned Form; which are the only papers filed in the State Court Action as of the time of

this removal, and a copy of the civil court docket sheet are attached hereto as Exhibit 1 through Exhibit 5.

3. Removal Is Proper. Removal to this Court from the District Court of Comanche County, State of Oklahoma, is proper pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446 in that: (1) there is complete diversity of citizenship between Plaintiff and State Farm; (2) the amount in controversy exceeds \$75,000; and (3) this Notice of Removal is filed less than thirty (30) days after the State Court Action was commenced.

DIVERSITY OF CITIZENSHIP EXISTS

4. Plaintiff Texhoma Properties, LLC Is A Citizen of Oklahoma. Upon information and belief, the three members of Texhoma Properties LLC are individuals, Michael McKee and Mike Shallenberger, and the Estate of Harold Patterson. Although the Tenth Circuit has not specifically ruled on the proper method of determining citizenship of a limited liability company, every other circuit court and this Court have held that “[t]he citizenship of a limited liability company depends upon the citizenship of its members.” *Drinnon v. Drinnon Const., LLC*, No. CIV-14-819-C, 2014 WL 6620671, at *2 (W.D. Okla. Nov. 19, 2014.)

5. Michael McKee is a Citizen of Oklahoma. Upon information and belief, Michael McKee resides in Oklahoma and intends to remain there. Therefore, Mr. McKee is domiciled in the State of Oklahoma. *See* McKee Petition, ¶ 1, attached hereto as Ex. 6. Consequently, Texhoma Properties, LLC is a citizen of Oklahoma.

6. Texhoma Properties, LLC's other Members Are Citizens of Texas. Upon information and belief, Mike Shallenberger and the Estate of Harry Patterson are the only other two members of Texhoma Properties, LLC. Via email dated November 21, 2022, Plaintiff's counsel confirmed both Mr. Shallenberger and the Estate of Harry Patterson are owners of Texhoma Properties, LLC and are from Texas. (*See* Email Correspondence, attached hereto as Exhibit. 6.) Upon information and belief, Mr. Shallenberger intends to remain a resident of Texas; and therefore, he is a citizen of Texas. Upon information belief, the personal representative of the Estate of Harry Earl Patterson, Jr. is Brenda June Patterson, who resides in Wichita Falls, Texas. (*See* Oath of Brenda June Patterson, attached hereto as Exhibit 7.) Upon information and belief, Ms. Patterson intends to remain in Texas; and, therefore, is a citizen of Texas. Consequently, the Estate of Harry Patterson is a citizen of Texas. *See* 28 U.S.C. § 1332(c)(2). Because Texhoma Properties, LLC's other two members are citizens of Texas, Texhoma Properties, LLC could also be deemed a citizen of Texas.

7. State Farm Is Not a Citizen of Texas or Oklahoma. State Farm is a foreign corporation organized and existing under the laws of the State of Illinois, with its principal places of business in Bloomington, Illinois. (*See* Exhibit 1, Petition at ¶ 3, alleging State Farm is domiciled in Illinois; ¶ 2, alleging State Farm's principal place of business is Illinois.) Because neither Plaintiff is a citizen of Illinois, there is complete diversity of citizenship.

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

8. In their Petition, Plaintiff alleges damages in excess of \$75,000.00 (*See* Exhibit 1 at ¶¶ 39, 30). By alleging damages in excess of \$75,000.00, Plaintiff has pleaded that the amount in controversy satisfies the jurisdictional amount for diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

THE REMOVAL IS TIMELY

9. Removal Within Thirty Days. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is filed within thirty (30) days after the State Court Action was commenced on December 14, 2022, when Plaintiff served its Summons on the Oklahoma Department of Insurance.

10. Notice of Filing. Written notice of the filing of this Notice of Removal will be given promptly to Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the District Court of Comanche County, State of Oklahoma, as provided by 28 U.S.C. § 1446(d).

11. Comanche County is Located Within This District. Removal to this Court is proper under 28 U.S.C. § 1441(a) because the District Court of Comanche County, State of Oklahoma, is located within this District. *See* 28 U.S.C. § 116(c).

WHEREFORE, the Defendant, State Farm Fire and Casualty Company, hereby removes this action to this Court and invokes this Court's jurisdiction.

Respectfully submitted,

/s/ Lance E. Leffel

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2023, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants (names only are sufficient):

R. Ryan Deligans, OBA No. 19793

Andrew M. Gunn, OBA No. 19470

Attorneys for Plaintiff

/s/ Lance E. Leffel

Lance E. Leffel